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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,497	07/18/2001	Shu Yamaguchi		4197
2292	7590	12/01/2004		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
			EXAMINER DOUYON, LORNA M	
			ART UNIT 1751	PAPER NUMBER

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/889,497

Applicant(s)

YAMAGUCHI ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/1/04</u> . | 6) <input type="checkbox"/> Other: _____  |

1. This action is responsive to the amendment filed on September 14, 2004.
2. Claims 1-8, 12-15 are pending.
3. The rejection of claims 2, 4-8 under 35 U.S.C. 112, second paragraph is withdrawn in view of applicants' amendment.
4. Claims 1-8 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dijk et al. (WO 94/02573), hereinafter "Van Dijk" for the reasons set forth in the previous office action.

*Response to Arguments*

5. Applicants' arguments filed September 14, 2004 have been fully considered but they are not persuasive.

With respect to the rejection based upon Van Dijk, Applicants argue that in an embodiment of Van Dijk (see the Example on pages 27-28) the sodium carbonate content is 15.44 % by weight, and in contrast the presently claimed compositions contain 15% or less, and from the experimental comparison, sodium carbonate containing 15.65 wt% (more than 15%) left substantial aggregates while a generally similar composition comprising only 14.14 wt% sodium carbonate (less than 15%) produced no aggregates. Applicants also argue that each of the claims requires that the high density detergent composition has a total summation of a product of a mass base frequency  $W_i$  of each group of classified granules which satisfies formula (A) or (B)

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as those recited. Applicants also argue that they are not claiming a detergent composition having “an average particle size of about 400 microns” or any other such broad-based particle size measurement, instead the present claims are directed to detergent compositions that have specified *particle size profiles*, and that neither Van Dijk nor any other prior art of record teaches or suggests that varying particle size distribution in a detergent composition can have any impact on the performance of the composition.

The Examiner respectfully disagrees with the above arguments because on page 26, lines 4-16, Van Dijk teaches a free-flowing granular detergent having a bulk density greater than 650 g/l comprising from 5% to 20% by weight of filler particles comprising **sodium**, potassium or magnesium salts of citrates, sulphates, **carbonates**, bicarbonates or **silicates**, or a **mixture** thereof characterized in that at least 40% by weight of the filler particles is either less than 150 microns, or greater than 1180 microns. Even though the Example on pages 27-28 comprises 15.44 wt% sodium carbonate, a reference is not limited to preferred embodiments or working examples, see *In re Boe*, 148 USPQ 507 (CCPA 1966). In addition, a *prima facie* case of obviousness exists because the claimed ranges “overlap or lie inside ranges disclosed by the prior art”, see *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff*, 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I. With respect to the particle size profiles, the present claims require a “total summation of a product of a mass base frequency  $W_i$  and a dissolving rate  $V_i$  of each group of classified granules obtained by classifying detergent granules by using a classifier...” Even though Van Dijk does not explicitly disclose said property, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the granular detergent of Van Dijk to exhibit the

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same property because same ingredients with overlapping proportions, bulk density and particle sizes have been utilized. Applicants' experimental comparison have been considered, however, it is not commensurate in scope with the claims. The submitted experiment shows the effect of the amount of sodium carbonate in relation to aggregate formation, however, the particle size profile has not been compared with those of Van Dijk.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

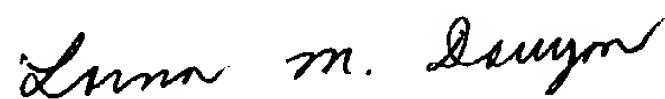
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lorna M. Douyon  
Primary Examiner  
Art Unit 1751